

Bangladesh's COVID-19 Year in Review

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Bangladesh's COVID-19 year of 2020 has been largely [chaotic, uncoordinated](#), inconsistent, and unpredictable. The first positive case was detected on 8 March 2020 and the first death was recorded on 18 March. The government started sample testing on 21 January 2020, but it clearly failed to take the pandemic seriously that intervened in early March. As of 19 February 2021, the total confirmed cases stands at 54,1877, and the [confirmed deaths at 8,314](#). Government authorities and political leaders take huge pride in claiming that Bangladesh has been one of the most successful countries to tackle COVID-19, with the least number of deaths compared with the size of its population (165 million). In reality, the COVID-situation and Bangladesh's responses to the crisis are much different than the rosy picture that is often drawn.

Bangladesh, however, has one major success in this regard. By January 2021, [it secured 5 million doses](#) of the AstraZeneca-Oxford vaccine, although from a secondary source, India. But the procurement has been processed [by a private pharmaceutical giant with links with the government](#). The vaccines have been rolled out for the public from [7 February 2021](#).

Early Politico-Legal Responses to COVID-19

Known as 'general holiday', the first lockdown took effect from 26 March 2020. Since 1 June 2020, there has been no lockdown or stay-at-home orders at all, [despite the surge in infections](#). The only exception was for the school children. All schools, colleges, and universities have remained closed since March 2020. The no-lockdown policy is supposedly necessitated by economic needs. Bangladesh has a thriving economy, but it has many challenges too: the unemployment rate is still high ([5.3% in 2020](#)), and the economy is heavily reliant on a couple of sectors such as the readymade garments export industry and foreign remittances.

During the two-month-long lockdown, all garment factories were closed, throwing an immediate blow to the economy. A stimulus package for the garments industry workers was developed, [but its implementation was a mess](#). The same was the fate of some [42 other stimulus schemes, largely because of disparity in distribution for the poor and disadvantaged sections of the public](#). The stimulus [mostly went to the large industries](#), with the agriculture and healthcare sectors being somewhat sidelined. The aid largely failed to reach the people who needed it the most, and people reportedly had to pay bribes to receive the [cash grant](#) announced by the Prime Minister. Many, many people lost their jobs and small business activity came to a complete halt. The government thought that they could not afford the luxury of shutting down the wheels of economy. Luckily, for various reasons, the flow of foreign remittance, mostly by Bangladeshi migrant workers, [soared unexpectedly, if not surprisingly](#). On the other hand, having lost their jobs, many migrant workers

returned home. The government was sympathetic to them but had certainly not done enough. By contrast, [many returning migrant workers were arrested](#) on the allegation that they demonstrated against policies of the countries of employment during the pandemic. The law does not permit arrests of migrant workers on such grounds.

The Health Emergency and the Use of Executive Powers

Short of any official declaration of state of emergency, Bangladesh imposed a *de facto* state of emergency to deal with the pandemic. The nature and the consequences of the initial COVID-19 restrictions, imposed by the government, [were essentially like those of any official emergency](#). For example, all courts were shut down by the government, without consulting the Supreme Court. A ‘general holiday’ of two weeks in schools, universities, and private and public offices was enforced from 26 March that was ultimately extended until 31 May. And the Army were deployed to enforce the stay-at-home orders. Relevantly, Bangladesh’s Constitution does not expressly authorise a state of health emergency, but a liberal interpretation would support such an emergency on the ground of ‘internal disturbance’.

The government could have enacted implementing rules under the [Communicable Diseases \(Prevention, Control, and Eradication\) Act 2018](#) to tackle COVID-19, but it failed to do so for no good reasons. Instead, it took the policy of issuing executive decisions, mostly prerogative, to regulate the health emergency. Only two statutory notifications (of 23 March and 16 April) are known to have been issued under the Act of 2018. Even the decision of closure of the Supreme Court was unconventionally taken without consulting the Chief Justice or the Supreme Court. The Supreme Court was, however, appreciably consulted by the government when promulgating an Ordinance on 9 May, [enabling the holding of e-courts during the pandemic](#). Court proceedings went online on 12 May 2020.

In other cases, the regulation of COVID-19 was mainly through *ad hoc* or instantaneous executive/departamental orders or statutory orders under laws governing public order. One such order requires people to wear masks in public places, and a disobeying now entails a fine of 5,000 BDT (approx. 65 USD). Mobile courts, staffed by executive officers, are authorized to enforce wear-mask-orders and other restrictions. To that end, the schedule of the [Mobile Courts Act 2009](#) was amended in 2020 by a statutory order, authorising the summary trial (by executive magistrates) of certain offences (such as the spreading of the virus, disobeying government orders, or concealing facts) under the Communicable Diseases Act 2018. Mobile courts, authorised to impose a prison term of two years, are widely considered [against the rule of law](#), because, among other issues, the executive officers have broad discretion in choosing the level of punishment. A legal challenge against the 2009 Act is currently pending before the Supreme Court’s Appellate Division.

Judicial and Legislative Intervention, Scrutiny, and Oversight

During 2020, a much-talked-about matter was the closure of courts from late March until 12 May 2020. This raised concerns about the citizens' right of access to courts. Interestingly, however, there were not many proceedings challenging executive actions or inactions pertaining to the regulation of the pandemic. In an early lawsuit, however, the Supreme Court's High Court Division on 22 March 2020 ordered the authorities [to ensure protective gear to the frontline health workers](#). This judicial intervention came up at the time when the government was struggling to manage COVID-19 with scarce resources and systemic inefficiencies. At around the same time, [a corruption syndicate in regard to COVID-19 tests and protective gear supplies](#) was revealed, resulting in several [arrests](#) and ongoing trial. Second, a lawyer has lately brought up a public interest litigation seeking an injunction for the opening of schools and colleges. The Court made no order in this petition, obviously keeping a margin of appreciation for the executive government. Nevertheless, the Supreme Court's involvement in forging ways to introduce [virtual-courts](#) during the pandemic remains a laudable activity in ensuring that the people can have access to justice and enforce their fundamental rights. When the courts were closed, no one could invoke judicial review to enforce rights or to challenge any governmental action. Many had, therefore, questioned the constitutional validity of the decision to shut down the Supreme Court. Although, COVID-related legal challenges are few and far between, virtual courts, and now physical courts, have been hearing some cases involving corruption during the pandemic.

Because of the pandemic, the Bangladeshi parliament refrained from its businesses until early June. The first few sessions in this time were conducted in a COVID-safe way. Interestingly, parliament enacted 27 pieces of legislation in 2020, more than what it did in 2019. The first law came into force on 28 January and the latest one on 26 November. A couple of these laws sought to increase the government revenue with an obvious view to strengthening economy in the time of pandemic. An Act required all government and autonomous agencies to return their surplus moneys to the central treasury. By dint of another law concerning taxation, any individual could disclose 'black money' or any undisclosed property by paying a 10% tax thereon. In the first half of the 2020-21 fiscal year a record amount has been whitened, which shows the breadth of corruption in the Bangladeshi economy over the past years. Only one 2020 enactment was directly related with the management of COVID-19 emergency. This was [the Use of Information Technology by Courts Act](#) of 9 July 2020, which indeed adopted the previously issued Ordinance of 9 May, noted above.

Lack of Coordination

The executive actions vis-à-vis the regulation of the health emergency, from the purchase of medical equipment and medicines/vaccines to enforcing quarantine orders, were marred by mis-coordination and inefficiencies. Although the government was aware of the pandemic, no adequate measures were taken to purchase equipment and increase the capacity of the hospitals. Initially, there was

no crisis management policy at all. In the first few weeks of the pandemic, returning people from Italy and other worst-hit countries were not put under quarantine. District level hospitals, in particular, were crippled by a sheer lack of ICU beds and other facilities. Bangladesh remained one of the least efficient countries, [standing at the 149th position](#), in carrying out COVID-tests. Throughout the year, it had the lowest number of daily tests in South Asia. It is alleged that the tests were [minimised to show a lower record of infections](#). People had to queue for hours and in the crowd before they could do the testing. As [the Transparency International Bangladesh \(TIB\) reports](#), lack of planning and coordination worsened the COVID-19. Reportedly, there were 9 different committees that worked discretely, without harmony. [In many cases, bureaucrats bypassed these committees in making decisions.](#)

To take the case of quarantine policy for recent returnees from the United Kingdom, the government first introduced a 14-day quarantine, which was later reduced to 4 days and then increased to 7 days, and then to 14-days again. Inefficiencies and the lack of coordination are also reflected in the management of vaccines administration. As mentioned, it has been a notable success for Bangladesh to be able to procure vaccines. Ironically, the success is blotted by some notable inefficiencies. For example, ministers and other political leaders are seen taking the shots while flanked by many people in the nurse's room. Vaccines are being administered to members of the public who have registered online, but a clear policy has not been adopted. The existing policy has not been well advertised, either. And there seems no policy on the registration of people who do not have access to internet or who are socially marginalised such as workers or dwellers in slums or poverty-stricken areas.

Impact on Human Rights and Civil Liberties

No doubt, in addition to ailing [‘Bangladesh’s health, politics and economy’](#), COVID-19 has taken a toll on people’s civic rights and liberties. The pandemic has affected the lives of people in many ways: many people have lost their jobs, incurred loan debt, and have been deprived of treatment facilities and subjected to domestic violence and other heinous crimes such as rape and human trafficking as a direct result of the situation caused by the pandemic. An unexpected social consequence, for example, has been the alarming rise in divorce rates in [Dhaka and other cities during the pandemic](#).

COVID-19 has been used as a cover up in hiding the ongoing trend of human rights violations for the past several years. On the one hand, people lost their freedom of movement during lockdown, and the right to education of school children and university students continue to be hampered. On the other hand, when the national attention remained focused on the COVID pandemic, loss of freedom of speech, harassments of journalists, extrajudicial killings, and enforced disappearances went on unabated. Several hundreds of returning Bangladeshi migrant workers were arrested at the airport. Reportedly, at least a dozen journalists/individuals in Bangladesh are facing prison terms for critiquing the government or its responses to the pandemic or for ‘spreading’ pandemic-related rumours. Some dissenters and human rights defenders have been silenced [by using or threatening to use the](#)

[infamous Digital Security Act 2018](#) that provides for harsh punishments for maligning the country's 'image' or that of any person, especially any dignitary or a high-up in the government. A writer-entrepreneur, arrested in May for sharing a satirical cartoon on corruption by a cartoonist (also arrested), [died in prison on 25 February 2021](#), while the [cartoonist was allegedly brutally tortured](#).

Like many other countries, Bangladesh has been a case of democratic backsliding. The COVID-19 now constitutes a critical juncture in the trajectories of democratic deconsolidation.

Closely tied with the issue of civic rights is corruption in public dealings. During the pandemic, several incidents of corruption have unfolded in the health sector, which indeed is a spill-over effect from the past years. It is now in the public knowledge that there were shady deals with regard to the procurement of masks and the administration of COVID-19 tests and test-certificates. At one stage, the Director General of the Health Services was removed after several corrupt practices were exposed. An [employee-driver of the agency was found to have accumulated huge wealth](#). The country's Anti-Corruption Commission is investigating against 45 people in the Health Services [for amassing illegal wealth](#). COVID-19 has unearthed corruption not just in the health ministry, but also in other agencies such as in Bangladesh [Railways](#) that had reportedly indulged in corruption while purchasing health emergency goods. According to [a TIB report](#), several good governance challenges remained in managing and responding to the health crisis. Party workers have allegedly derived benefits, for example, by joining in the scheme of hotels-quarantining.

2021 Outlook: Where To?

Bangladesh must, first of all, appreciate that the COVID-19 pandemic is not going anywhere soon. It must overhaul the health crisis management governance system. The capacity of the hospitals and the number and quality of health sector professionals should be increased. A clear policy based on equality and transparency should be put in place. It is high time that the government enacted a health crisis law or, at the minimum, promulgate implementing rules under the existing Communicable Diseases Act 2018. The government should also shun the style of managing the COVID-19 crisis by issuing decrees. The legislature and the Cabinet should have a more proactive role in the management of the pandemic. Last, but not the least, the enforcement of COVID-restrictions and other rules must come to terms with the constitutional rights of the people and the democratic principles enshrined in [the Constitution](#).

